

Exhibit F

LOAN AGREEMENT

between

**Bayrock Merrimac LLC,
a Florida limited liability company,**

**Bayrock Whitestone LLC,
a Delaware limited liability company,**

**Bayrock Spring Street LLC,
a Delaware limited liability company,**

**Bayrock Camelback LLC,
an Arizona limited liability company**

and

**FLG Property I, LLC,
a Delaware limited liability company**

Covering:

**Residential/Hotel Condominium Projects in
Soho, New York
Whitestone, New York
Fort Lauderdale, Florida
Phoenix, Arizona**

TABLE OF CONTENTS

1.	Agreement to Make The Loan.....	2
2.	Terms of the Loan.....	2
3.	Closing Date.....	3
4.	Reserved.....	3
5.	Loan Documents.....	3
6.	Restrictions on Sales of Bayrock Ownership Interests.....	4
7.	Reserved.....	7
8.	Reserved.....	8
9.	Representations.....	8
10.	Use of Loan Amount Balance.....	10
11.	Brokers.....	12
12.	Reserved.....	12
13.	Right of First Purchase.....	12
14.	Closing Costs.....	12
15.	Non-Liability.....	12
16.	Reserved.....	13
17.	Condition of Properties.....	13
18.	Notices.....	17
19.	Entire Agreement.....	18
20.	Amendments.....	18
21.	No Waiver.....	18
22.	Successors and Assigns.....	18
23.	Partial Invalidity.....	18
24.	Paragraph Headings.....	18
25.	Governing Law.....	19
26.	Binding Effect.....	19
27.	No Recording or Lis Pendens.....	19
28.	Confidentiality.....	19
29.	Survival.....	21
30.	Arbitration.....	21
31.	Certain Definitions.....	21
32.	No Third Party Beneficiaries.....	22
33.	Time of Performance.....	22
34.	Counterpart Execution; Execution by Facsimile Transmission.....	22
35.	Ambiguities Not Construed Against Drafter.....	22
36.	No Special Relationship Between Bayrock and Lender.....	23
37.	No Right to Management Control; Restricted Decisions; Limitation of Liability.....	23
38.	Right to Receive Information.....	24
39.	Indemnity Regarding Phoenix Dispute.....	23
40.	Events of Default.....	23

Exhibits

<u>Exhibit</u>	<u>Description</u>
A-1	Description of Soho Property
A-2	Description of Whitestone Property
A-3	Description of Fort Lauderdale Property
A-4	Description of Phoenix Property
B	List of Non-Business Days
C	Form of Co-Venture Operating Agreement
D	Reserved
E	Form of Guaranty
F	Form of Pledge Agreement
G	Excluded Communication Parties
H	List of Existing Brokerage Agreements
Schedule 2(a)	Terms of the Loan
Schedule 2(b)	The Note
Schedule 9.1	Organizational Charts of Property Owners

LOAN AGREEMENT

THIS LOAN AGREEMENT (this "Agreement"), is made as of this 16th day of May, 2007 (the "Effective Date"), between Bayrock Merrimac LLC, a Florida limited liability company ("Bayrock Merrimac"), Bayrock Whitestone LLC, a Delaware limited liability company ("Bayrock Whitestone"), Bayrock Spring Street LLC, a Delaware limited liability company ("Bayrock Spring Street"), and Bayrock Camelback LLC, an Arizona limited liability company ("Bayrock Camelback"; together with Bayrock Merrimac, Bayrock Whitestone and Bayrock Spring Street, collectively, "Borrowers" and individually, a "Borrower"), each having an office at c/o Bayrock Group L.L.C., Trump Tower, 725 Fifth Avenue, New York, New York 10022, and FLG Property I, LLC, a Delaware limited liability company, having an office at c/o FL Group UK Ltd, 42 Berkeley Square, London W1J5AW ("Lender").

W I T N E S S E T H:

WHEREAS, Bayrock Group L.L.C., a New York limited liability company ("Bayrock") owns 100% of the membership interests (collectively, the "Interests") in Bayrock Spring Street, Bayrock Whitestone, Bayrock Merrimac, and Bayrock Camelback;

WHEREAS, Bayrock Spring Street owns 27.33% of each of Bayrock/Sapir Organization Realty LLC, a Delaware limited liability company ("Bayrock/Sapir Organization Realty") and Bayrock/Sapir Organization Holdings, LLC, a Delaware limited liability company ("Bayrock/Sapir Holdings");

WHEREAS, Bayrock/Sapir Organization Realty and Bayrock/Sapir Holdings collectively own 100% of 246 Spring Street Holdings II, LLC, a Delaware limited liability company ("Spring Street Holdings");

WHEREAS, Spring Street Holdings is the sole member of Bayrock/Sapir Organization LLC, a Delaware limited liability company (the "Soho Property Owner");

WHEREAS, Bayrock Whitestone owns 10% of the membership interests in 151-45 Sixth Road Whitestone Partners LLC, a Delaware limited liability company (the "Whitestone Property Owner") and 50% of the profit interests in Whitestone Property Owner;

WHEREAS, Bayrock Merrimac owns 39.6% of Stillman Bayrock Merrimac LLC, a Delaware limited liability company ("Stillman Bayrock Merrimac");

WHEREAS, Stillman Bayrock Merrimac is the sole member of SB Hotel Associates LLC, a Delaware limited liability company (the "Fort Lauderdale Property Owner");

WHEREAS, Bayrock Camelback owns 90% of Camelback Development Partners LLC, an Arizona limited liability company (the "Phoenix Property Owner"; together with the Soho Property Owner, the Whitestone Property Owner and the Fort Lauderdale Property Owner, the "Property Owners" and individually a "Property Owner" and Bayrock/Sapir Organization Realty and Bayrock/Sapir Holdings, together with Whitestone Property Owner, Fort Lauderdale Property Owner, Soho Property Owner and Phoenix Property Owner are collectively referred to as the "Companies" and each, a "Company");

WHEREAS, (i) the Soho Property Owner owns that certain real property located at 246 Spring Street, New York, New York and more particularly described in Exhibit A-1 attached hereto (the "Soho Property"); (ii) the Whitestone Property Owner owns that certain real property located at 151-45 6th

Road, Whitestone, New York and more particularly described in Exhibit A-2 attached hereto (the "Whitestone Property"); (iii) the Fort Lauderdale Property Owner owns that certain real property located at 551 North Fort Lauderdale Beach Boulevard, Fort Lauderdale, Florida and more particularly described in Exhibit A-3 attached hereto (the "Fort Lauderdale Property"); and (iv) the Phoenix Property Owner owns that certain real property located at the southeast corner of West Camelback Road and North 26th Street, Phoenix, Arizona and more particularly described in Exhibit A-4 attached hereto (the "Phoenix Property"); together with the Soho Property, the Whitestone Property and the Fort Lauderdale Property, the "Properties" and individually a "Property";

WHEREAS, each Property Owner is developing a residential and/or hotel condominium project on its respective Property; and

WHEREAS, Lender and Borrowers have agreed that Lender will lend to Borrowers jointly and severally the amount of Fifty Million and 00/100 Dollars (\$50,000,000), on the terms set forth in this Agreement (the "Loan").

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, the mutual receipt and legal sufficiency of which are hereby acknowledged, Borrowers and Lender hereby agree as follows:

1. Agreement to Make The Loan.

Lender agrees to make the Loan on the terms set forth in Section 2 below.

2. Terms of the Loan.

2.1 Concurrently with the date hereof, Lender is advancing to Borrowers an amount equal to Fifty Million and 00/100 Dollars (\$50,000,000) (the "Loan Amount"). The Loan Amount shall be advanced by wire transfer of immediately available federal funds to an account or accounts designated by Borrowers. The Loan shall be made on the terms set forth in Schedule 2(a) and shall be evidenced by a promissory note (the "Note") in the form attached hereto as Schedule 2(b).

2.2 Upon Borrowers' receipt of the Loan Amount, Borrowers shall distribute same to Bayrock (to the extent lawfully permitted to do so) and Bayrock in turn shall disburse same as follows:

(i) Bayrock shall use an amount up to \$22,500,000 to be distributed to Bayrock's chairman and to pay down Bayrock's existing indebtedness;

(ii) Bayrock shall use an amount up to \$2,500,000 of the remaining Loan Amount proceeds to pay closing costs in connection with the transaction contemplated by this Agreement (including, without limitation, attorneys' fees and broker fees).

(iii) Any portion of the Loan Amount not expended under Sections 2.2(i) or (ii) (the "Loan Amount Balance") shall be retained by Bayrock and used in accordance with the provisions of Section 10 hereof.

3. Closing Date.

The consummation of the transactions contemplated hereby (the "Closing") shall take place on the date hereof (the "Closing Date").

4. Reserved.

5. Loan Documents.

5.1. At the Closing, Borrowers shall deliver (or cause to be delivered) to Lender the following:

- (a) this Agreement and the Note;
- (b) a guaranty of payment (the "Guaranty"), in the form attached hereto as Exhibit E, executed by Bayrock;
- (c) a pledge and security agreement (the "Pledge"), in the form attached hereto as Exhibit F, executed by Bayrock, together with a UCC-1 financing statement;
- (d) a limited liability company operating agreement (the "Co-Venture Operating Agreement"), in the form attached hereto as Exhibit C, executed by Bayrock Development Partners, LLC, a Delaware limited liability company;
- (e) such documents (such as limited liability company resolutions, corporate resolutions or partnership authorizations and certified limited liability company, corporate or partnership organizational documents) as are reasonably required by Lender to evidence the authorization of the transactions contemplated by this Agreement;
- (f) the consent (to the extent that Lender and Borrowers reasonably agree that such consent is necessary), or notice of this transaction (to the extent that consent is not deemed reasonably necessary), from lenders and key members of the Property Owners; provided, however, Lender acknowledges and agrees that Borrower shall not be required to obtain the consent or acknowledgment of either Capmark Finance Inc. (the lender to the Whitestone Property Owner), any direct or indirect member in the Whitestone Property Owner, GMAC Commercial Mortgage Corporation (the lender to the Phoenix Property Owner) or any direct or indirect member in the Phoenix Property Owner; and
- (g) such other documents, instruments and/or deliveries as are required to be delivered by Borrowers (or Bayrock) pursuant to the terms of this Agreement or by applicable law or which are appropriate in order to effectuate the terms hereof.

5.2. At the Closing, Lender shall deliver to Borrowers the following:

- (a) the Loan Amount;
- (b) the Co-Venture Operating Agreement, executed by FL Group USA, Ltd., a Delaware corporation;

(c) Neither Lender, nor any person or entity who owns any direct or indirect equity or other interest in or controls Lender is (i) identified on any Governmental List, or otherwise qualifies as a Prohibited Person or (ii) in violation of any applicable law, rule or regulation relating to anti-money laundering or anti-terrorism, including, without limitation, any applicable law, rule or regulation related to transacting business with Prohibited Persons or the requirements of any Anti-Terrorism Law. No funds or assets directly or indirectly invested in Lender constitute the property of or are beneficially owned, directly or indirectly, by any person or entity which is (A) identified on any Governmental List, or otherwise qualifies as a Prohibited Person or (B) in violation of any applicable law, rule or regulation relating to anti-money laundering or anti-terrorism, including, without limitation, any applicable law, rule or regulation related to transacting business with Prohibited Persons or the requirements of any Anti-Terrorism Law.

9.3. Each of the representations and warranties set forth in Section 9.1 of this Agreement (collectively, "Borrower's Representations") shall survive the Closing for a period of one hundred eighty (180) days. Each of the representations and warranties set forth in Section 9.2 of this Agreement (collectively, "Lender's Representations") shall survive the Closing for a period of one hundred eighty (180) days.

9.4. If any of Lender's Representations or Borrower's Representations is discovered to be untrue in any material respect after Closing, and a claim is asserted within the time periods set forth in Section 9.3 of this Agreement, then Bayrock or Lender, as the case may be, shall, subject to the provisions of Section 15 of this Agreement, have the right to pursue any and all remedies available against Lender or Bayrock, as the case may be, as a result of such inaccuracy.

9.5. In the event that at or prior to Closing, Lender obtains knowledge that any Borrower Representation is untrue in any material respect, and nevertheless proceeds to close the transactions contemplated by this Agreement, then Lender shall be deemed to have waived Lender's right to assert the untruth of such Borrower Representation against Bayrock or to otherwise make a claim with respect thereto.

9.6. For purposes of this Agreement, the terms "Borrowers' actual knowledge", "Bayrock's actual knowledge" and words of similar import shall mean the actual knowledge of the Bayrock Managers.

10. Use of Loan Amount Balance.

Borrowers shall cause the Loan Amount Balance to be deposited into Bayrock's operating account and Borrowers shall cause Bayrock to use the Loan Amount Balance only as follows:

(a) to fund general operating expenses, reasonable employee compensation and other overhead of Bayrock and Bayrock's now existing or hereafter-formed, related entities (collectively, "Bayrock Parties");

(b) to fund expenses of the Bayrock Parties (including, without limitation, capital contributions, legal fees, and third party obligations) in connection with investments made by the Bayrock Parties in investments existing as of the Closing Date, including, without limitation, the Properties (collectively, "Current Properties");

(c) to fund expenses of the Bayrock Parties (including, without limitation, capital contributions, legal fees, and third party obligations) in connection with investments made by the

Bayrock Parties subsequent to the Closing Date in properties which are invested in by Bayrock pursuant to any future Co-Venture Operating Agreement (as hereinafter defined) ("Co-Venture Properties");

(d) to fund expenses of Bayrock (including, without limitation, capital contributions, legal fees, and third party obligations) in connection with investments made by Bayrock or Bayrock's affiliates subsequent to the Closing Date in properties which are invested in by Bayrock other than through the Co-Venture Operating Agreement ("Non-Co-Venture Properties"). For the avoidance of doubt, it is agreed that if Lender or its affiliate chooses not to invest in a transaction under the Co-Venture Operating Agreement and, as a result, such transaction becomes a Non-Co-Venture Property, then the Bayrock Parties shall nonetheless have the right to use the Loan Amount Balance to invest in Non-Co-Venture Properties without the participation therein of Lender;

(e) to pay to the Bayrock Parties any Development Fee Shortfall (as defined below) with respect to all of the Properties, provided, however, in no event shall more than \$3,000,000 of the Loan Amount Balance in the aggregate be applied to the payment of any such Development Fee Shortfall. Borrowers shall cause Bayrock to use commercially reasonable efforts to obtain the full amount of the Minimum Development Fee (as defined below) from other sources, including, without limitation, other investors in the applicable Property, which will result in the Development Fee Shortfall for such Property equaling zero, provided, however, if Bayrock fails so to do for any reason, none of Borrowers nor Bayrock shall have liability to Lender and Bayrock shall be free to cause the Development Fee Shortfall to be paid to the Bayrock Parties as provided herein. For the avoidance of doubt, it is acknowledged that (x) Lender shall not have liability to pay any Development Fee Shortfall (as such payment shall be made solely out of the Loan Amount Balance) and (y) no payments to Lender arising from the Lender Investment shall be reduced as a result of the payment of any Development Fee Shortfalls. The amount of the estimated Development Fee Shortfall for a Property and the number of months over which it shall be paid shall each be calculated by Borrowers and Bayrock shall be entitled to deduct from the Loan Amount Balance and pay to itself on a monthly basis an amount equal to the total estimated Development Fee Shortfall divided by the estimated total number of months and, when the project is substantially completed, the parties will adjust the payments made based on such estimates to conform to the actual amounts.

(f) As used herein, the following terms shall have the following meanings:

"Development Fee Shortfall" shall mean, with respect to any Property, an amount equal to (i) the Minimum Development Fee for such Property less (ii) the total amount of development fees to be paid to the Bayrock Parties arising from such Property.

"Minimum Development Fee" shall mean, with respect to any Current Property, an amount equal to 3% of all hard and soft costs actually incurred in connection with the development of such Property (but specifically excluding land acquisition costs, real estate taxes, interest on indebtedness and other financing costs with respect to such Property).

(g) Lender shall have reasonable audit rights with respect to the calculation of amounts paid by or on behalf of Bayrock and any Borrower with the Lender Investment Amount and the right to audit (and make copies of) the books and records and all financial data relating to each Property, each Property Owner, Bayrock Owner, each Company and each Borrower, at any time during normal business hours at Bayrock's headquarters in the United States.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto as of the Effective Date.

BORROWERS:

BAYROCK CAMELBACK LLC

By: Bayrock Group L.L.C., its sole member

By: 

Name: Tevrik Arif
Title: President

Federal I.D. No. 30-0226831

BAYROCK MERRIMAC LLC

By: Bayrock Group L.L.C., its sole member

By: 

Name: Tevrik Arif
Title: President

Federal I.D. No. 20-0365998

BAYROCK WHITESTONE LLC

By: Bayrock Group L.L.C., its sole member

By: 

Name: Tevrik Arif
Title: President

Federal I.D. No. 20-2555899

BAYROCK SPRING STREET LLC

By: Bayrock Group L.L.C., its sole member

By: 

Name: Tevrik Arif
Title: President

Federal I.D. No. 02-0749821

LENDER

FLG PROPERTY I, LLC, a Delaware limited liability company

By: R. Beemstock
Name: RICHARD BEEMSTOCK
Title: ASSOCIATE DIRECTOR

I.D. No. _____

Schedule 2(a)

Terms of the Loan

1. Base Interest. Borrowers shall pay base interest ("Base Interest") on the outstanding balance of the Loan Amount, accruing at a rate of eight and four-tenths percent (8.4%) per annum. Base Interest shall be paid monthly out of Borrower Available Cash (as hereinafter defined), and to the extent there is insufficient Borrower Available Cash at any time, Base Interest will accrue and be payable at such time as there is sufficient Borrower Available Cash to pay such Base Interest. All computations of Base Interest will be made by Lender on the basis of a year of 365 or 366 days, as the case may be, for the actual number of days (including the first day but excluding the last day) occurring in the period for which such interest is payable. Without limiting the foregoing, Borrower acknowledges that (a) distributions of Borrower Available Cash shall not be made to Bayrock until such time as all accrued and unpaid Base Interest and the then outstanding principal amount of the Loan has been repaid to Lender and (b) payment of sale brokerage commissions and similar back-ended compensation regarding the Properties, pursuant to the agreements listed on Exhibit H hereto (and any similar agreements now or hereafter entered into by or on behalf of Bayrock) shall be paid by Bayrock, out of the portion of Borrower Available Cash allocable to Bayrock, after payment of any other amounts due to Lender hereunder (provided, that if any such commission or compensation is paid by a Property Owner or a Company, then the amount of Borrower Available Cash payable to Bayrock shall be reduced, and the amount of Borrower Available Cash payable to Lender shall be increased, until Lender has received Borrower Available Cash equal to the pro rata share of such commission or compensation allocable to Lender, calculated as though such commission or compensation had been paid directly by Bayrock, and not out of cash flow received by Borrowers or any Property Owner).

2. Available Cash Payment. From time to time, subject to Section 4 below, to the extent that (x) a Borrower received Borrower Available Cash, then Borrowers shall pay all accrued and unpaid Base Interest to Lender, then (y) after all accrued and unpaid Base Interest has been paid in full to Lender, such Borrower shall pay to Lender a payment (an "Available Cash Payment") equal to (i) until such time as the Loan Amount has been repaid in full, one hundred percent (100%) of such Borrower Available Cash (taking into account all payments of Base Interest and reduction of principal) and (ii) from and after the date on which the Loan Amount has been repaid in full to Lender, but subject to the terms of Paragraph 4 below, forty-nine percent (49%) of such Borrower Available Cash. The amount of the Available Cash Payment to be paid on any given date shall be calculated by reference to the amount of Borrower Available Cash determined to be available for distribution to the members of Borrower on the date immediately preceding the date of the proposed Available Cash Payment. Each Available Cash Payment shall be applied first to payment of Base Interest, and then to reduction of the outstanding Loan Amount and after repayment of the Loan Amount (less the Remaining Balance (as hereinafter defined)) in full (together with all accrued and outstanding Base Interest), such Available Cash Payments shall be additional interest due to Lender. For the avoidance of doubt, Lender and Borrowers acknowledge and agree that (x) the remaining fifty one percent (51%) of Borrower Available Cash under clause (ii) above (after repayment in full of the Loan and all accrued and unpaid Base Interest (less the Remaining Balance)) shall be permitted to be distributed to the members of Borrower and (y) one hundred percent (100%) of Borrower Available Cash that accrues after the Maturity Date shall be permitted to be distributed to the members of Borrower, subject to Borrower's payment to Lender of the Maturity Date Payoff Amount (as hereinafter defined). Notwithstanding the foregoing, (a) if Lender elects to receive the Aggregate Loan Amount pursuant to the provisions of Section 6.4(a)(x), then from and after such election and repayment in full of the Loan and all accrued and unpaid Base Interest, no further Available Cash Payments shall be due to Lender and Borrowers shall have the right to distribute 100% of any Borrower Available Cash to its members and (b) from and after the repayment of the Maturity Date

Payoff Amount and payment in full of the Loan and all accrued and unpaid Base Interest and Available Cash Payments then due and owing, no further Available Cash Payments shall be due to Lender and Borrowers shall have the right to distribute 100% of any Borrower Available Cash to its members. All payments of Available Cash Payments shall be made within five (5) Business Days of receipt by Borrower of funds constituting Borrower Available Cash. Amounts due and payable under the Loan Agreement which are not paid timely shall bear interest at a per annum rate equal to the "prime rate" then in effect and published by Citibank N.A., plus two (2%) percent (the "Default Interest") from the date such Available Cash Payment was due, through the date paid by Borrowers. In the event that Citibank N.A. no longer publishes a "prime rate", then such interest rate shall be reasonably determined by Borrowers, by reference to the "prime rate" then published by any major, money-center banking institution selected by Borrowers.

3. Maturity Date. The Maturity Date of the Loan (the "Maturity Date") shall be the fifteenth (15th) anniversary of the date hereof. Within seventy-five (75) days after the determination of Fair Market Value, the Maturity Date Payoff Amount shall be due and payable by Borrowers to Lender in full.

4. Prepayments. Borrowers may, at any time, prepay all or any portion of the outstanding principal amount of the Loan Amount without any premium or penalty in each case with accrued Base Interest to the date of such prepayment on the Loan Amount prepaid. No prepayment of the Loan Amount prior to the Maturity Date shall relieve Borrowers from the obligation to pay to Lender the Available Cash Payment. Notwithstanding the foregoing, a portion of the Loan Amount equal to \$100,000 (the "Remaining Balance") may not be prepaid until the earlier to occur of (x) the Maturity Date and (y) the last of the Properties then owned by the Property Owners are being sold. Without limiting the foregoing, (x) the first portion of Borrower Available Cash payable to Bayrock, in the amount of \$100,000 (the "Initial Payment"), shall be paid to Lender as additional interest and (y) thereafter, Borrower Available Cash shall continue to be payable in accordance with Paragraph 2 above, until such time as the Remaining Balance becomes payable, or may be repaid to Lender (in which case, prior to the payment of such Remaining Balance to Lender, any remaining Borrower Available Cash which would otherwise have been paid to Lender, shall be paid to Bayrock, until Bayrock has received an amount equal to the Initial Payment)).

5. Defined Terms. As used herein, the following capitalized terms shall have the following meanings:

"Borrower Available Cash" shall mean, with respect to each Borrower and with respect to any period of time, the cash receipts received (directly or through any other Bayrock entity) by such Borrower during such period (it being agreed, for the avoidance of doubt, that "cash receipts" shall not include development fees permitted under the Loan Agreement payable to any Borrower (such fees to be paid directly to Bayrock)), less the portion thereof used during such period to pay all Borrower unaffiliated third party administrative expenses and obligations such as corporate filing fees and similar items.

"Fair Market Value" shall mean the value of the Properties owned (if any) as of the Maturity Date as (a) determined by the written agreement of Borrower and Lender within one hundred twenty (120) days prior to the Maturity Date or (b) if Borrowers and Lender do not execute such a written agreement agreeing to the Fair Market Value prior to the date which is ninety (90) days prior to the Maturity Date (the "FMV Out Date"), determined by the appraisal process set forth as follows:

(a) Each of Borrowers, on the one hand, and Lender, on the other hand, shall select (and notify the other party of the selection and identity of) an appraiser within ten (10) days after the FMV

Out Date. In the event that either party fails to notify the other of its selection and identity of an appraiser within such ten (10) day period, then such party shall be deemed to have waived its right to select an appraiser, in which event the appraiser selected by the other party that has so satisfied its obligation to select and identify an appraiser shall be the appraiser that determines Fair Market Value hereunder. Each appraiser thus selected shall within sixty (60) days after the FMV Out Date report its appraisal in writing simultaneously to Borrowers and Lender. If the lower of the two (2) appraisals is not less than Ninety Two and Five Tenths Percent (92.5%) of the higher of the two (2) appraisals, the average of the two (2) appraisals shall be the Fair Market Value. If the lower of the two (2) appraisals is less than Ninety Two and Five Tenths Percent (92.5%) of the higher of the two (2) appraisals, the two (2) appraisers shall, within five (5) days after such sixty (60) day period, select (and notify Borrowers and Lender of the selection and identity of) a third (3rd) appraiser who shall within fifteen (15) days of its appointment select the amount stated by either Borrowers' appraiser or Lender's appraiser and such third (3rd) appraiser shall have no discretion to select an amount different from either thereof

(b) Each appraiser must be an independent third party MAI appraiser, shall have at least five (5) years experience in the appraisal of hotels and residential and mixed use condominium property in the city in which the applicable Property is located, and shall be disinterested and not an affiliate of Borrowers or Lender. Each appraisal must be made on an all-cash sale basis without reduction for any lien or encumbrance against the applicable Properties. In each instance where two (2) appraisers select a third (3rd) appraiser, the two (2) appraisers shall share with the third (3rd) appraiser all documents, research and other information acquired by them with respect to the applicable Properties. In the event that such two (2) appraisers cannot agree on the third (3rd) appraiser, then the decision regarding the identity of the third (3rd) appraiser shall be submitted to arbitration pursuant to the rules for expedited commercial arbitration of the American Arbitration Association within the City of New York. The fees and expenses of each appraiser shall be borne by the party selecting such appraiser and the fees and expenses of the third appraiser, if any, shall be split equally between Borrowers and Lender.

"Maturity Date Payoff Amount" shall mean the amount that Lender would receive if the Properties owned as of the Maturity Date (if any) were sold to a third party for their then Fair Market Value and the proceeds thereof (e.g., the Fair Market Value minus the amount necessary to repay in full any third party loans as if same were being prepaid on the Maturity Date (including, without limitation, any prepayment premiums or penalties) and plus or minus customary pro-rations) paid to the applicable Property Owner, who in turn distributed such proceeds to its members and ultimately the portion thereof distributable to Borrowers was distributed to Borrowers and paid to Lender as Available Cash Payments pursuant to the provisions of Paragraph 2. If no Properties are owned as of the Maturity Date, then the Maturity Date Payoff Amount shall be zero. Notwithstanding the foregoing, the total amount payable with respect to the Loan (including the Maturity Date Payoff Amount, Base Interest, repayment of principal, and any other payment to Lender out of Borrower Available Cash) shall not exceed \$250,000,000, in the aggregate.